

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MALCOM P. COLEMAN,

Petitioner,

Case Number: 07-15172

v.

HONORABLE AVERN COHN

SHIRLEE HARRY,

Respondent.

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**ORDER ADOPTING REPORT AND RECOMMENDATION**  
**AND**  
**DENYING APPLICATION FOR WRIT OF HABEAS CORPUS**  
**AND**  
**DISMISSING CASE**

I.

This is a habeas case under 28 U.S.C. § 2254. Petitioner Malcom P. Coleman (Petitioner), a state prisoner convicted by a jury of armed robbery and home invasion, claims he is incarcerated in violation of his constitutional rights. Petitioner specifically claims that the jury instructions were improper and he received ineffective assistance of counsel for failing to object to the jury instructions. The matter was referred to a magistrate judge for a report and recommendation (MJRR). The magistrate judge recommends that the petition be denied for lack of merit.

II.

Before the Court are Petitioner's objections to the MJRR.<sup>1</sup> Petitioner objects the magistrate judge's recommendation that Petitioner's claims are defaulted and lack merit. Having carefully reviewed the record and the MJRR, the Court agrees with the magistrate judge that Petitioner's claims, although defaulted, lack merit. The jury instructions were based on Michigan law and proper under the circumstances.

III.

Accordingly, the MJRR is ADOPTED as the findings and conclusions of the Court, as supplemented above. Petitioner's application for writ of habeas corpus is DENIED. This case is DISMISSED.

SO ORDERED.

Dated: November 10, 2009

s/ Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Malcolm Coleman, 234984 Muskegon Correctional Facility, 2400 S. Sheridan, Muskegon, MI 49442 the attorneys of record on this date, November 10, 2009, by electronic and/or ordinary mail.

s/ Julie Owens  
Case Manager, (313) 234-5160

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<sup>1</sup>On October 21, 2009, Petitioner signed a motion and brief requesting sixty days to file objections. The Court received and filed the motion on October 27, 2009. On October 26, 2009, Petitioner signed objections to the report and recommendation, which were received and filed on October 29, 2009. Because petitioner has filed objections, his motion for an extension of time is moot. While the objections are sparse, because the portions of the MJRR that a party find objectionable are reviewed de novo, 28 U.S.C. § 636(b)(1)(C), petitioner need not present detailed objections in order to obtain review.